IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICITON

SALES TAX APPLICATION NO.9 OF 2006
IN
REFERENCE APPLICATION NO.55 OF 2004

The Commissioner of Sales Tax .. Applicant.

Versus

M/s.Suchem International .. Respondent.

Mr.V.A. Sonpal, AGP for the applicant.

Ms.N.R. Badheka for the respondent.

CORAM : H.L. GOKHALE, &
J.P. DEVADHAR, JJ.

DATED : 20TH OCTOBER, 2006.

P.C. :

1. This application is notified 'for directions' today since the approach which we had adopted in our order passed on 13th October, 2006 is contrary to the law laid down by the Apex court in the case of Laxmi Cotton V/s. C.S.T. reported in 1970 (26) STC 263. This being the position, we recall the order that we passed on 13th October, 2006.

2. We have heard Mr.Sonpal in support of this application and Ms.Badheka for the respondent. In our view the two questions sought to be raised in this application require reference. The two questions of law are as follows :

1. Whether on the facts and in the

circumstances of the case, and in correct and true interpretation of section 35 of the Bombay Sales Tax Act, 1959 was the Tribunal justified in law in holding that the notice of reassessment contains a vague and irrelevant proposal to reassess the liability when the Respondent was made aware that purchases effected by him are not genuine and when he himself was aware that he had claimed set of under rule 43C of the Bombay Sales Tax Rules, 1959 on the said purchases at the time of assessment ?

2. Whether on the facts and in the circumstances of the case, and in correct and true interpretation o sub-section (3) of the Section 35 of the Bombay Sales Tax Act, 1959 was the Tribunal justified in coming to the conclusion that it is necessary to give complete proposal in the notice of reassessment, when the said notice is given for opportunity of hearing before passing an order of Assessment ?

3. Accordingly, statement of case is called from the Tribunal. The Tribunal may file statement of case and refer the questions of law at the earliest.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR, J.)